

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ALEXANDER ODOM,	§
	§
Defendant Below-	§ No. 157, 2001
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr.A. No. IK99-09-0494 R1
Plaintiff Below-	§
Appellee.	§

Submitted: September 20, 2001
Decided: October 31, 2001

Before **VEASEY**, Chief Justice, **WALSH** and **STEELE**, Justices

ORDER

This 31st day of October 2001, upon consideration of the appellant’s opening brief and the appellee’s motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, Alexander Odom, filed an appeal from the March 23, 2001 order of the Superior Court denying Odom’s motion for postconviction relief.¹ The State of Delaware has moved to affirm the judgment of the Superior Court on the ground that it is manifest on the face

¹Super. Ct. Crim. R. 61.

of Odom's opening brief that the appeal is without merit.² We agree and AFFIRM.

(2) In September 1999, Odom was indicted on charges of Delivery of Cocaine and Delivery of a Narcotic Schedule II Controlled Substance Within 1,000 Feet of a School. In January 2000, Odom pleaded guilty³ to the first charge and the State dismissed the second charge. In accordance with the plea agreement, Odom was sentenced to 20 years at Level V, to be suspended for the minimum mandatory sentence of 15 years, followed by probation. Odom did not file a direct appeal of his conviction or sentence.

(3) In this appeal, Odom claims that: a) the Superior Court abused its discretion during the plea colloquy by failing to inquire into the reasons he was dissatisfied with his attorney; b) his attorney provided ineffective assistance by not questioning conflicts in the police and laboratory reports; and c) the actions of the Superior Court and his attorney violated his due process rights.

(4) Odom's claim that the Superior Court abused its discretion by not inquiring into the reasons for his dissatisfaction with his attorney is

²Supr. Ct. R. 25(a).

³Pursuant to Super. Ct. Crim. R. 11(e) (1) (C).

procedurally barred because it was not asserted in the proceedings leading to the judgment of conviction⁴ and Odom has failed to present any evidence showing cause for relief or prejudice from a violation of his rights.⁵ The claim is without a factual basis in any case. The transcript of the plea colloquy reflects clearly that the Superior Court judge inquired specifically into Odom's statement on the guilty plea form that he was not satisfied with his attorney's representation and that his attorney had not advised him of his rights. After the State's proffer of the considerable evidence against him and a careful and lengthy discussion with the Superior Court judge, Odom stated unequivocally that he did not want to go to trial and believed the plea agreement was the best result he could obtain under the circumstances.

(5) Odom's claim that his attorney provided ineffective assistance by failing to question inconsistencies in the police and laboratory reports is also without merit. There is no support in the record for a claim that, but for his counsel's alleged errors, Odom would not have pleaded guilty and would have

⁴Super. Ct. Crim. R. 61(i) (3).

⁵Super. Ct. Crim. R. 61(i) (3) (A) and (B).

insisted on going to trial.⁶ Moreover, the transcript of the plea colloquy reflects clearly that Odom entered his guilty plea freely and voluntarily. Odom's voluntary guilty plea constitutes a waiver of any alleged defects or errors occurring prior to the entry of the plea.⁷

(6) Odom's claim of a due process violation is based upon his previous claims of defects in the plea colloquy and ineffective assistance of counsel. Because there is no basis for those claims, there is also no basis for Odom's claim of a due process violation.

(7) It is manifest on the face of Odom's opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, clearly there was no abuse of discretion.

⁶*Somerville v. State*, Del. Supr., 703 A.2d 629, 631 (1997).

⁷*Downer v. State*, Del. Supr., 543 A.2d 309, 311-12 (1988).

NOW, THEREFORE, IT IS ORDERED that, pursuant to Supreme Court Rule 25(a), the State of Delaware's motion to affirm is GRANTED.

The judgment of the Superior Court is AFFIRMED.

BY THE COURT:
s/ Joseph T. Walsh
Justice